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ABSTRACT

These guidelines are intended to assist North Dakota educators in locating, identifying, and evaluating children and youth with special educational needs. They provide detailed information regarding required practices and recommended procedures in the areas of public awareness, child find, screening, referral, and the complete evaluation process. Guidelines are closely correlated with the specific regulations under the Individuals with Disabilities Education Act (IDEA) 1997. Following an introduction, the first section discusses location and identification including public awareness, child find, and screening. The second section discusses referral for evaluation, and the third section discusses the evaluation planning process which includes multidisciplinary teams, student demographics, student profiles, assessment plans, integrated written assessment reports, and determination of disability. The final two sections discuss reevaluation and independent evaluations. Appendices include the text of the relevant federal regulations and state recommended forms. (DB)

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Guidelines:

Evaluation Process

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Forward

On June 4, 1997, the Individuals with Disabilities Education Act (IDEA) was amended through Public Law (P.L.) 105-17. The guiding premise of the 1997 amendments built on the actions, experiences, information, facts and research gathered since enactment of the Education of the Handicapped Act in 1975. IDEA 97 emphasizes that an effective education system, now and in the future, must maintain high academic standards and clear performance goals for children with disabilities. Further, these standards and performance goals must be consistent with those required for all students in the educational system. They provide for appropriate and effective strategies and methods to ensure that students with disabilities have maximum opportunities to achieve those standards and goals. Accordingly, the IDEA 97 provisions relating to evaluation and individualized education programs place greater emphasis on the involvement and progress of all children with disabilities in the general education curriculum.

IDEA 97 provides the opportunity for the Department of Public Instruction to review and revise guidelines relating to the education of students with disabilities in North Dakota schools. Input from personnel from all special education units, parents, and other organizations and agencies was gathered and carefully considered to provide a range of perspectives on this guideline document.

Guidelines: Evaluation Process...
was produced by the Office of Special Education, North Dakota Department of Public Instruction.

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A complete copy of the Part 300 categories of the IDEA 97 regulations is located in the *Guidelines: Individualized Education Program Planning Process.*

Introduction

The Department of Public Instruction, Office of Special Education, has prepared these guidelines to assist educators in the task of locating, identifying, and evaluating children and youth with educational needs. *Guidelines: Evaluation Process* provides detailed information regarding required practices and recommended procedures for North Dakota schools in the areas of:

- public awareness
- child find
- screening
- referral
- the complete evaluation process.

BENEFITS OF A COMPREHENSIVE EVALUATION PROCESS

- Allows input from a variety of sources
- Focuses assessment on educationally relevant questions
- Considers the student's environments, influences, and experiences
- Considers and accommodates cultural, environmental, economic, social-emotional, motor and sensory issues
- Assures that the appropriate procedures are used to answer the questions
- Assures complete information and accurate identification

The terms evaluation and assessment are used interchangeably in federal regulations and in the literature. Federal regulations define evaluation as assessment procedures used to determine whether a child has a disability and needs special education and related services. The terms initial evaluation and reevaluation are used consistently in the federal regulation headings to describe the overall decision making in regard to eligibility for special education. Hereafter, in this document, reference to evaluation or reevaluation implies the complete evaluation process.

The evaluation process is an active, on-going process that utilizes relevant information from a full range of sources (home, school, and community). The evaluation process supports the instructional process, providing information that improves student outcomes. The evaluation process recognizes individual experiences and differences and is nondiscriminatory and nonbiased. The findings of the evaluation process will:

- determine if the student has a disability;
- provide vital information relating to the educational needs of the child; and
- guide decision making in determining the appropriate educational programming for each child with a disability.

The basis for location, identification, and evaluation of students with disabilities is the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973, which mandate that school districts locate and evaluate children and youth suspected of having a disability. Each school district is required to have an ongoing method to locate, identify, and evaluate all children ages birth through twenty-one suspected of having a disability. This ongoing system should include collaboration with agencies that locate and serve children and youth with disabilities. The interaction between school districts and local agencies would assist the school and community in anticipating long-range needs to better serve all children and youth with disabilities.

This document includes the IDEA 97 revisions pertaining to identification and evaluation. With regard to evaluation, IDEA 97 emphasizes using existing assessment data, information concerning behavior, and information on how the child can be involved in the general curriculum. Further, there is an emphasis on the importance of input from the child's parents during: the initial evaluation process; in determining eligibility for special education services and placement decisions; and during the reevaluation process. The reauthorization is viewed as an opportunity to review, strengthen, and improve IDEA to better educate children with disabilities and enable them to achieve quality education.

Location and Identification

Public Awareness and Child Find

School districts must conduct activities for creating public awareness of special education services, advising the public of the rights of children and parents, and alerting community residents to the need for identifying and serving children who are in need of special education and related services. This includes identification and location of children attending private schools and highly mobile children such as migrant and homeless children.

Methods used by school districts to conduct the awareness activities include, but are not limited to the following:

- utilization of various local media resources including television, radio, and newspaper for public service announcements and print advertisements, as well as guest appearances on local radio and television programs;
- development of communication links with various agencies that provide services to children eligible for special education within the community, including dissemination of information on Child Find activities to agencies and programs such as Head Start and other early childhood and child care programs, health services, hospitals, clinics, pediatricians, pediatric nurses, and social service professionals involved in child and family services;
- direct contact activities with members of the community, including those who may not easily understand English or who may live in rural or isolated geographic areas. Examples of such activities are presentations at community meetings, business group meetings, church sponsored meetings, and meetings of public employees and officials; and
- notices on bulletin boards in public places such as supermarkets, laundromats, gas stations, senior citizen centers, human service centers, and county social services offices.

Sec. 300.125

Child find

(a) General requirement. (1) The State must have in effect policies and procedures to ensure that:

(i) All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated; and

(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

(2)The requirements of paragraph (a)(1) of this section apply to:

(i) Highly mobile children with disabilities (such as migrant and homeless children); and

(ii) Children who are suspected of being a child with a disability under §300.7 and in need of special education, even though they are advancing from grade to grade.

(Authority: 20 U.S.C. 1412 (a)(3) (A) and (B))

(A complete copy of Sec. 300.125 can be found in Appendix A.)

Screening

BEHAVIOR CONCERNS

When planning screening procedures for behavior concerns, the identification process must be placed within the larger context of the school operation. Sometimes, problems perceived as student problems are in fact system problems. Most student behavior concerns can be addressed through school-wide and classroom-based systems. For those students who are unable to benefit from pre-established, well-defined rules and supports, there may be a need for additional screening and consideration of further individualization of the student's educational program.

School districts are responsible for planning screening activities and ensuring that such activities are performed in accordance with state and federal requirements. Previously, schools conducted mass screenings for all children when they entered school and at predetermined grade levels. However, these mass screenings did not identify needs of children effectively and resulted in expenditure of considerable staff time with children for whom no prior concerns existed. In response to these concerns, selective screenings have been initiated to: (1) supersede mass screening of school-aged children, (2) identify at-risk children birth to five, and (3) screen secondary-level students who are at a higher risk of dropping out or who have dropped out of school to ensure that the student's leaving school is not due to an undiagnosed disability.

Selective screening (hereafter referred to as screening) is the process of gathering and reviewing information on selected at-risk students. Screening is completed to determine the significance of the risk conditions to the student's growth and development or academic performance. Qualified personnel will identify risk factors that impact the student's ability to learn by means of:

- vision screening to verify any vision related problems or risk indicators;
- hearing screening to verify any hearing risk indicators;
- speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;
- screening for social-emotional or mental health status;
- preschool screening which typically includes vision, hearing, cognitive, motor, speech-language, social-emotional, and health components to identify possible developmental delays; and
- screening of secondary-level students who are at higher risk of dropping out or who have dropped out of school to verify that the reasons for dropping out are not related to a previously unidentified disability.

HATCH ACT

Parent consent is required when information is collected on an individual child that is not being obtained for all individuals in the same grade or class (Hatch Act, 1974, amended to General Education Provisions Act, 1984, 34 CFR 98.)

When carrying out selective screening, the school must notify parents that their child has been referred for screening. The notice must include a description of the concern, the procedures to be used, the date, time, and location of the screening, and who will be involved. In addition, as provided by the Hatch Act of 1974, parents must provide written consent for the child to participate in the selective screening process.

The result of the screening process is a systematic collection of information for every student screened. The team that reviews the results of the screening needs to determine whether the student should be screened again at a later time, referred for follow-up services by the school or another agency, or referred for a comprehensive evaluation.

For school-age children, follow-up services may be provided through the school Building Level Support Team (BLST) process. Some schools refer to this as the teacher assistance team (TAT) process. The Building Level Support Team process is a general education activity that is used to provide support to the classroom teacher. A structured problem-solving process is used by educators and parents to develop interventions for a student who is experiencing difficulty in classroom achievement or behavior.

It is strongly recommended that parents be involved from the very beginning in any screening and Building Level Support Team process. If parents have been involved in the attempts to improve learning for the child, they will be more knowledgeable about issues regarding their child's education.

It is important to note that a team process similar to the BLST process can also assist in planning interventions for children ages birth to five who are experiencing developmental

POTENTIAL FOLLOW-UP ACTIVITIES AS A RESULT OF SCREENING

- Rescreening
- Referral to another agency
- Referral to the Building Level Support Team
- Referral to the ND Early Childhood Tracking System
- Referral for diagnostic assessments
- Resource packets for parents

delays or displaying problems in other areas. Personnel in programs such as Head Start, Infant Development, and other child care settings have as much need for a support system as do teachers of elementary and secondary students. Special education personnel with expertise in early childhood education for children with disabilities should be available when such expertise is needed.

For children ages birth to five, screening results may indicate to the team the need for the services provided through the North Dakota Early Childhood Tracking System (NDECTS). NDECTS is a coordinated system for the location, identification, and monitoring of young children ages birth to five who may be at risk for developmental delays. Local interagency teams identify, refer, and monitor a child's progress over time, and make recommendations for additional services for the child and the parent.

If the follow-up services and interventions tried by the parent and school or agency personnel do not assist the student in addressing the difficulty experienced, the process of collecting additional information should be initiated, in a timely manner, through a referral for a comprehensive evaluation.

Referral for Evaluation

School districts and other agencies involved in providing services to children with disabilities are responsible for having a written referral process in place. This process must include the written policies, procedures, and forms required to ensure a comprehensive referral process.

The school district is responsible for informing parents of the referral for a comprehensive evaluation. The school must provide written notice, which includes a complete listing of procedural safeguards. Explanation of the purposes and nature of the proposed evaluation should occur in a dialogue with parents. This critical step is part of the ongoing communication that must take place with parents.

The following items are areas that impact the student's learning and should be addressed as part of the written referral:

- reason for referral, including specific questions raised by personnel who are requesting the referral;
- observations of behavior and/or learning patterns that interfere with the student's ability to succeed in the classroom or natural setting;
- basic biographical data for identification purposes and additional personal data with educational implications significant to the analysis of the student's performance and/or behavior;
- evidence that a qualified person in addition to the classroom teacher has observed the student and has contributed information that supports the referral; and
- a brief summary of BLST activities or other prereferral interventions to accompany the written referral, including a delineation of attempts to address the problem within the general educational setting and the results of such attempts. When a child is referred without appropriate prereferral intervention information (i.e., a preschool child or a parent referral) the evaluation planning process should address modifications and adaptations to the various natural and learning environments.

NOTE:

School personnel are reminded that parental consent must be obtained before:

- conducting an initial evaluation or reevaluation; and
- initially providing special education and related services.

Referral for evaluation may come through: (1) public awareness, Child Find or screening activities, (2) the school Building Level Support Team process, (3) agencies such as the Department of Human Services-Division of Developmental Disabilities or NDECTS, or (4) by parent request. The procedures for parental referral must be part of the school's written referral process.

If parents believe their child is not progressing as expected, or they notice particular problems in how the child learns, they may refer the child for a comprehensive evaluation. If school personnel also suspect that the child may have a disability, the school district's referral and evaluation process must be followed. This evaluation process must be completed within a reasonable period of time after the school personnel suspect the child may have a disability.

If the school personnel do not suspect that the child has a disability, they may refuse to evaluate the child. The school must inform the parents in writing of its reasons for refusal. However, if the parents suspect the child has a disability that requires special education, they may pursue an evaluation using mediation or due process hearing procedures.

Parents must understand the purpose of the referral for an evaluation and that their consent is voluntary. If the parents of a child with a disability refuse consent for evaluation, the school may pursue consent for evaluation by using mediation or due process procedures.

Sec. 300.531

Initial Evaluation

Each public agency shall conduct a full and individual initial evaluation. In accordance with §§300.532 and 300.533 before the initial provision of special education and related services to a child with a disability under Part B of the Act.

(Authority: 20 U.S.C. 1414(a)(1))

Sec. 300.505

Parental consent

(a) *General.* (1) Subject to paragraphs (a)(3), (b) and (c) of this section, informed parent consent must be obtained before:

(i) Conducting an initial evaluation or reevaluation; and

(ii) Initial provision of special education and related services to a child with a disability.

(2) Consent for initial evaluation may not be construed as consent for initial placement described in paragraph (a)(1)(ii) of this section.

(3) Parental consent is not required before:

(i) Reviewing existing data as part of an evaluation or a reevaluation; or

(ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

(b) *Refusal.* If the parents of the child with a disability refuse consent for initial evaluation or a reevaluation, the agency may continue to pursue those evaluations by using the due process procedures under §§300.507-300.509, or the mediation procedures under §300.506 if appropriate, except to the extent inconsistent with State law relating to parental consent.

(c) *Failure to respond to request for reevaluation.* (1) Informed parental consent need not be obtained for reevaluation if the public agency can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond.

(2) To meet the reasonable measures requirement in paragraph (c)(1) of this section, the public agency must use procedures consistent with those in §300.345(d).

(d) *Additional State consent requirements.* In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.

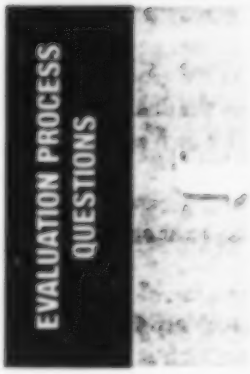
(e) *Limitation.* A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) and (d) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

(Authority: 20 U.S.C. 1415(b)(3); 1414(a)(1)(C)-and (c)(3))

Evaluation Planning Process

Each component of the evaluation planning process serves a function to ensure that a comprehensive and appropriate evaluation is completed for each child. The evaluation planning process components include:

- identification of a multidisciplinary team;
- completion of Student Demographics;
- development of a Student Profile;
- formulation of assessment questions on the Assessment Plan;
- completion of the individualized assessments; and
- preparation of an Integrated Written Assessment Report.



To ensure that each component is adequately addressed, it is useful to ask the following questions throughout the evaluation process.

- Student Profile
  What do we already know about the total functioning of the student?
- Assessment Plan
  What else do we need to know about the total functioning of the student to produce better results or to verify continuing designation as a child with a disability?
- Integrated Written Assessment Report
  What conclusions can be drawn from the assessments and existing information about the student's disability and how instruction might be improved to achieve better results for the student?

Multidisciplinary Team

Once a referral for a comprehensive evaluation is made, a multidisciplinary team (MDT) must be identified. Input must be obtained by multidisciplinary team members who, because of their expertise or special knowledge of the student, can observe, gather data, and assess any aspect of the student's functioning that may be affected by the suspected disability.

The multidisciplinary team has the responsibility to:

- develop a Student Profile;
- develop an Assessment Plan with modifications, as needed;
- carry out the Assessment Plan;
- analyze the findings throughout the process; and
- prepare an Integrated Written Assessment Report to summarize pertinent observational data and other relevant assessment results that will determine if the student has a disability that adversely affects education.

The number of persons involved in the evaluation process will vary from one student to another. The following list includes examples of persons who may be considered as members of the multidisciplinary team, based on what is known or suspected in terms of the student's needs.

- The **parents** play an important role in the evaluation process and must be part of their child's multidisciplinary team. It is critical to obtain input from parents so the team will fully understand the scope of the student's needs. The parents are able to contribute valuable information about their child including developmental milestones, healthcare issues, behavior in the home and other settings, homework completion, recreational interests, and vocational interests.

- The **principal** is a key member of the multidisciplinary team because of the administrative and instructional leadership inherent in this position. As an administrator, the principal ensures that all necessary activities are carried out throughout the special education process. He/she has the authority to commit and monitor the use of resources, including personnel. If needed, the principal can consult with special education administrative personnel regarding procedural concerns and funding questions that may arise throughout the evaluation process. As an instructional leader, the principal is knowledgeable about the general education curriculum and can provide a broader perspective regarding the child's needs within the curriculum. Finally, the principal can provide information to the team on how the student functions outside the classroom, particularly when behavior is a concern.

- The **general education teacher** is a key member of the multidisciplinary team because of his/her involvement in BLST activities. The child's classroom teacher will provide vital information concerning the child's level of functioning within the general education curriculum and the instructional implications that result from the disability. The team depends on the classroom teacher for reporting classroom data such as the outcomes of diagnostic teaching, interactions with other students, and day-to-day performance. If the child does not have a general education teacher, then a general education teacher or other person qualified to teach a child of that age would be appropriate.

- The team must include at least **one teacher or other specialist with knowledge in the area(s) of suspected disability.** Teams should include a specialist with expertise regarding the suspected disability, including the low incidence disabilities such as vision impairment, deafness, and autism. This teacher or specialist must have experience conducting and interpreting assessments for the suspected disability area. For example, for a student suspected of having a specific learning disability, the regulations require involvement of a teacher certified in learning disabilities and a second diagnostician with the appropriate competencies to assess the student's functioning. If more than one disability is suspected, persons knowledgeable in each disability should be included. If a student has limited English proficiency, it is important to include a person who is knowledgeable about the identification, assessment, and education of students with limited English proficiency. The data gathered during the referral process will assist in determining the appropriate special education personnel.

- Other persons may be asked to participate in the evaluation process depending upon the information needed about the student. It may be appropriate for some BLST members who have background information on the student to become involved in the evaluation planning process. Similarly, agency personnel, private practitioners, and employers may be team members if they bring critical knowledge of the child.

Depending on a multidisciplinary team, rather than an individual diagnostician, ensures that observations and other sources of data are gathered from a variety of settings in which the student demonstrates varying strengths and needs. The data gathered by each of the team members will be used as the basis for the Integrated Written Assessment Report.

Student Demographics

The multidisciplinary team will complete the demographic information regarding the student who has been referred for evaluation. Identifying information establishes the student's educational background, provides child count information, and ensures accurate data management.

Student Profile

The multidisciplinary team completing the evaluation will develop a profile of the student based on the information previously gathered from all available sources. The team must gather relevant functional, instructional, and developmental information about the child.

NOTE

The state-recommended forms referred to in this section are located in Appendix B.

The student profile will:

- provide a comprehensive picture of the child;
- identify patterns of current student functioning; and
- indicate areas where further information is needed.

Student Characteristics/Influences. The team needs to consider a variety of characteristics and influences in a student's life when organizing the information already known about the student.

These factors, which are recorded under the column *Student Characteristics/Influences*, represent broad categories rather than specific data findings. The categories may include, but are not limited to: cognitive characteristics, physical characteristics, adaptive characteristics, classroom characteristics, and environmental influences.

Source of Information. The team should consider a variety of information sources, including: BLST records, teacher reports, medical reports, student cumulative file, previous assessment reports, the referral form, data collected from other agencies, and information given by the student and parent(s). These sources are recorded under the *Source of Information* column.

Findings. The specific information or data from each source is recorded in the *Findings* column. Such information reflects the student's learning characteristics and will provide direction for the assessment plan. In addition, those factors that precipitated the referral for evaluation should be noted as a significant part of the student's profile. Evidence of abilities and strengths, as well as patterns of needs that emerged during the prereferral activities, provide partial answers to a student's needs, but may raise new questions as well.

Additional Information Needed. After all available information has been organized and reviewed, the team will identify areas where additional information is needed to determine:

NOTE

Refer to the Reevaluation section for further guidance regarding *Additional Information Needed.*

- whether a disability exists or, in the case of a reevaluation, if a disability continues to exist;
- the present levels of performance and educational needs of the child;
- whether the child may need special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
- whether any additions or modifications to the special education and related services are needed to enable the child: (1) to meet the measurable annual goals in the child's individualized education program, and (2) to be involved in and progress in the general curriculum, or for a preschool child, to participate in age appropriate activities.

These needs for additional information are the basis for constructing the Assessment Plan. Whether additional information is needed must be determined on a case-by-case basis, depending on the needs of the child and the information available regarding the child. In some cases, it may be determined that no additional information is needed to determine or to confirm the child has a disability. If the child's team determines that no additional information is needed, an Integrated Written Assessment Report must be completed to summarize all the information reviewed and to verify agreement that all current information has been gathered to make disability determination decisions.

Sec. 300.533 **Determination of needed evaluation data**

(a) *Review of existing evaluation data.* As part of an initial evaluation (if appropriate) and as part of any reevaluation under Part B of the Act, a group that includes the individuals required by §300.344, and other qualified professionals, as appropriate, shall:
  (1) Review existing evaluation data on the child, including:
    (i) Evaluations and information provided by the parents of the child;
    (ii) Current classroom-based assessments and observations; and
    (iii) Observations by teachers and related services providers; and
  (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine:
    (i) Whether the child has a particular category of disability, as described in §300.7, or, in case of a reevaluation of a child, whether the child continues to have such a disability;
    (ii) The present levels of performance and educational needs of the child;
    (iii) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
    (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

(b) *Conduct of review.* The group described in paragraph (a) of this section may conduct its review without a meeting.

(c) *Need for additional data.* The public agency shall administer tests and other evaluation materials as may be needed to produce the data identified under paragraph (a) of this section.

(d) *Requirements if additional data are not needed.* (1) If the determination under paragraph (a) of this section is that no additional data are needed to determine whether the child continues to be a child with a disability, the public agency shall notify the child's parents:
  (i) Of that determination and the reasons for it, and
  (ii) Of the right of the parents to request an assessment to determine whether, for purposes of services under this part, the child continues to be a child with a disability.
  (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

(Authority: 20 U.S.C. 1414(c)(1), (2) and (4))

Assessment Plan

Development of the Student Profile leads the multidisciplinary team into the assessment planning process by defining what additional information is needed. The Assessment Plan details how the additional information will be obtained and by whom.

Purpose for Assessment. The reason for the evaluation must be documented on the *Purpose for Assessment* section of the Assessment Plan. If the student is being evaluated for the first time, check *Initial Evaluation.* If a student has been dismissed from special education services and is being evaluated for another suspected disability, this is also considered an initial evaluation. However, if a student is being evaluated within three years of the most recent comprehensive evaluation to confirm the student's disability, the second option,

Reevaluation, should be checked. The third option, *Evaluation* or *Reevaluation for Individual Program Needs*, is checked when assessment information is needed to verify current programming, new questions arise calling for additional assessment procedures, a change in student performance is noticed, or prior to a student's dismissal from special education and related services.

Prior to dismissal from receiving special education and related services, the school district must evaluate the child before determining that the child is no longer a child with a disability. This includes a child who is dismissed from a single service, but who continues to receive other special education or related services A comprehensive evaluation is not required before the termination of a student's eligibility due to graduation with a regular high school diploma.

Considerations for Nonbiased Assessment. Throughout the evaluation planning process, it is important to identify all factors that may mask ability and cause the student to appear to have a disability. The *Considerations for Nonbiased Assessment* section on the state-recommended form allows the team to address factors which may interfere with obtaining a true picture of the student's functioning.

School districts have an obligation to review their selection and administration of assessments for potential discrimination. Tests and other assessment materials used to evaluate a child must be selected and administered so as not to be discriminatory on a racial or cultural basis. They must be provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible.

Sec. 300.19

Native language

(a) As used in this part, the term *native language*, if used with reference to an individual of limited English proficiency, means the following:
  (1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a) (2) of this section.
  (2) In all direct contact with a child (including evaluation of the child), communication would be in the language normally used by the child in the home or learning environment.

(b) For individuals with deafness or blindness, or for individuals with no written language, the mode of communication is that normally used by the individual (such as sign language, braille, or oral communication).

(Authority: 20 U.S.C. 1401(16))

Students under extreme stress, or students without benefit of the cultural or educational experiences assumed in the assessment, may perform poorly in assessment situations. Those same factors may also cause students to perform poorly in classroom activities. Teams often overlook the strengths and capabilities of these students.

The team must consider how the following factors may interfere with the evaluation process:

- *Cultural.* Biased beliefs and stereotypes must be discarded to work effectively with other cultures. The child whose cultural values or vocabulary does not include much of the basic information required for understanding and responding to everyday educational opportunities is clearly at a disadvantage in the school and assessment setting. Information about the child's culture and his/her receptive and expressive language abilities must be gathered to assist in providing nonbiased assessments.
- *Environmental.* A student is disadvantaged in the educational and assessment setting when circumstances in the home or in any environment within the student's life make classroom achievement difficult. It is important to consider all the student's environments and make accommodations during the evaluation process so the student's true abilities are reflected.
- *Motor or Sensory.* When assessing a student with motor or sensory impairments, the evaluation procedures and instruments must measure the concerns expressed, rather than reflecting already identified motor or sensory impairments. For example, a test of cognitive functioning administered to a child with a hearing impairment must assess cognitive functioning and not unfairly penalize the child for a communication disability.
- *Economical.* The student whose family has been extremely deprived economically may often develop an attitude toward his/her own destiny which does not value diligence and class attentiveness or even regular school attendance. Such students may lack experiences that develop educational readiness as well as language skills, and may have a difficult time following verbal explanations of tasks or performing the task. The team needs to be sensitive to economic factors that may limit exposure to varied environments.
- *Emotional.* Psychological conditions can interfere with the child's ability to provide valid responses to assessment tasks. Children who have been victims of maltreatment, physically or psychologically, sometimes display a lack of creativity, persistence or enthusiasm for the tasks given to them. In a similar manner, biochemical conditions may impel a child to review the same thought over and over, making concentration on a given task impossible for that time. Awareness of a child's emotional state at the time of assessment is crucial to determining whether the current emotional status will permit a true picture of that child's capacity.

Questions to Answer through Assessment. In the assessment planning process, the team will develop questions regarding student performance. The questions will be derived from the *Additional Information Needed* area on the Student Profile form and documented on the *Questions to Answer through Assessment* section of the Assessment Plan form. It is also important to consider questions in the areas of culture, environment, sensory, motor, emotional development, and economic factors to assure nonbiased assessments.

Questions should focus on all areas related to the child's needs, the child's method of learning, and the learning environment. For example, in the area of mental retardation, ability level and adaptive behaviors define the disability. Therefore, questions regarding cognitive ability and adaptive functioning need to be asked.

In the area of specific learning disabilities, specific issues required by federal regulations must be addressed in the written report (e.g., the determination of the team concerning the effects of environmental, cultural or economic disadvantage). These issues will guide the questions to be asked.

The more specific the questions are, the greater the likelihood that the team will select assessment procedures that yield educationally relevant data. Based on the questions asked, the team will construct an Assessment Plan for gathering needed assessment information.

Assessment Procedures. The multidisciplinary team will outline specific procedures to be followed when gathering assessment information in the *Assessment Procedures* section of the Assessment Plan. No single procedure can be used as the sole criterion in deciding whether a child has a disability. A team must use a variety of assessment tools and strategies to gather relevant functional and developmental information about the child, including information provided by the parent. This relevant information will directly assist in determining the educational needs of the child.

The information pertaining to the child can be gathered in a variety of ways. Traditional assessments are formal, standardized tools designed to assess a specific area or level of functioning. These are used to gather in-depth information related to the student's capabilities and performance.

Standardized tests must be validated for the specific purpose for which they are used and be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producers of the tests. If an assessment is not conducted under standard conditions, information about the extent to which the assessment varied from standard conditions, such as the qualification of the persons administering the test or the method of test administration, needs to be included in the assessment report. The team can then evaluate the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed.

Examples of traditional assessment tools are:

- Woodcock-Johnson Psychoeducational Battery - Revised;
- Wechsler Intelligence Scales for Children - Revised;
- AAMR (American Association of Mental Retardation) Adaptive Behavior Scale - School; and
- Statewide achievement tests such as the Comprehensive Test of Basic Skills (CTBS) or Iowa Basic Skills Test.

Another way to gather valuable information is through the use of nontraditional assessment procedures. Nontraditional assessments are informal methods of gathering systematic information about a student's functioning in a particular setting. Nontraditional procedures provide opportunity to gather a wide range of information about the student's performance across environments.

Examples of nontraditional assessment procedures are:

- utilizing information gathered through the Building Level Support Team process or other prereferral activities;
- observing the student in various learning environments;
- utilizing information and records in the student's cumulative folder;
- analyzing the student's work samples including classroom-based assessments;
- implementing diagnostic teaching methods or other systematic methods of instruction; and
- interviewing persons who can provide key information (e.g., student, parent, previous teachers, community/neighborhood people).

Person(s) Responsible. The list of questions that have been formulated and need to be answered will determine who will assist in gathering the data, and whether additional persons need to be added to the multidisciplinary team.

Other Considerations for Developing the Assessment Plan

The content of the Assessment Plan will be determined by the data already available and the information that still needs to be gathered. When reviewing existing data on the child, the team should include:

- assessments and information provided by the parents of the child, including that of private practitioners and agency personnel;
- current classroom-based assessments and observations; and
- observations by teachers and related services providers.

Strategies to implement the Assessment Plan will vary according to individual student needs. The overall goals of the evaluation process will be similar: to establish whether the student has a disability and the student's eligibility for special education services. However, the range of problems reported, the complexity of those problems, and the age of the student will determine the type and amount of assessment required. During the evaluation process, if the team determines that assessment in any area is incomplete, the plan should be revised.

The team's conclusions should be documented as each area is addressed. The written Assessment Plan will become a working document for each team member and will serve as a reference for accountability.

Assessment Considerations for Secondary-Level Students. While the purposes of a transition assessment vary depending on the individual and the setting, the broad purposes include the following:

- to determine an individual's level of career development when planning transition activities;
- to assist a student in identifying interests, preferences, strengths, and abilities in relation to post secondary goals;
- to determine appropriate placements within educational, vocational, and community settings that may facilitate the attainment of these post-secondary goals;
- to determine and facilitate self-determination skills; and
- to determine the accommodations, supports, and services necessary to attain and maintain post-secondary goals.

The transition assessment information could be gathered in a variety of ways. Types of transition assessments may include: interest, aptitude, work samples, situational assessments, and vocational assessments.

Functional Behavioral Assessment Considerations. A Functional Behavioral Assessment is a problem-solving process. The process assists the team in discovering relationships between factors in the school environment and a student's behavior. It is not a single test, but rather a systematic way of collecting information and analyzing it. A Functional Behavior Assessment (FBA) will yield information that is useful in developing positive behavioral supports.

A comprehensive FBA is essential for the situations stated below:

- The student's challenging behavior persists despite consistently implemented and documented support plans that have been based on less comprehensive and less formal methods of assessment.
- The student's behavior interferes with the student's learning or the learning of other students.
- The student's behavior is a result of an emotional disturbance.
- The student's behavior places the child or others at risk of harm or injury.
- The student's behavior results in repeated disciplinary actions, placing the child at risk of exclusion and devaluation by peers and the community.
- The student's team is considering more intrusive and restrictive procedures, and/or a more restrictive placement for the student.

An FBA provides critical information for instructional programming, the teaching of alternative skills, and responses to problem behaviors including crisis management and long-term prevention. Problem behaviors often adversely affect a student's quality of life in terms of relationships, access to preferred activities, and inclusion with same-age non-disabled peers. Appropriate behavioral skills are also crucial to a student's successful participation in home, workplace, and community settings.

Functional Behavior Assessments can be conducted by any professional with expertise in behavior measurement and analysis, and with background in educational strategies, methods, and curriculum. This combination of competencies is necessary to analyze the ecology of the student's classroom, the student's interactions with instructional tasks, curriculum materials, classroom variables, and peers. University programs in school psychology, social work, mental health counseling, and special education teacher education routinely include both coursework and field-based experiences in analyzing behaviors, developing interventions to resolve behavior problems, and collaborating with multidisciplinary teams.

Sec. 300.532

Evaluation procedures

Each public agency shall ensure, at a minimum, that the following requirements are met:

(a)(1) Tests and other evaluation materials used to assess a child under Part B of the Act:
- (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; and
- (ii) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

(2) Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

(b) A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining:
- (1) Whether the child is a child with a disability under §300.7; and
- (2) The content of the child's IEP.

(c)(1) Any standardized tests that are given to a child:
- (i) Have been validated for the specific purpose for which they are used; and
- (ii) Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the test.

(2) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.

(d) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(e) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(f) No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.

(g) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(h) In evaluating each child with a disability under §§300.531-300.536, the evaluation is sufficiently comprehensive to identify all of the child's special education and relative service needs, whether or not commonly linked to the disability category in which the child has been classified.

(i) The public agency uses technically sound instruments that may assess the related contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(j) The public agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

(Authority: 20 U.S.C. 1412(a)(6)(B), 1414(b) (2) and (3))

Integrated Written Assessment Report

The team will write a report that integrates findings from all sources. The report will verify agreement that all current and relevant data have been gathered and reviewed to make disability determination decisions. The integration of all assessment data ensures that attention has been given to observations and other information shared by each team member. In addition, it protects the student from being labeled inappropriately, which might occur if a decision were made by one person or on the basis of one procedure or situation.

The Integrated Written Assessment Report needs to be written in a manner that is understandable to parents and other professionals; it should not reiterate test scores that are not meaningful to parents or others. The school must provide a copy of the Integrated Written Assessment Report and the documentation of determination of eligibility to the parents.

Each of the areas listed and discussed below should be considered and documented during the team's analysis of the assessment findings:

- observational information relating to the student's current level of functioning;
- input from all team members that reflects all areas of the student's functioning;
- consideration of nondiscriminatory procedures that were addressed throughout the evaluation process;
- all other current and relevant data relating to the child;
- determination of the child's disability; and
- a consensus statement from all team members and/or a statement of disagreement, if applicable.

Observational Findings

The written findings need to reflect the relationship of observational information to the student's current levels of functioning. At least one team member other than the student's general education teacher must observe the student's performance in the classroom setting. If a student is less than school age or is out of school, a team member must observe the student in an environment appropriate and familiar to the student. A summary report based on team analysis ensures that observations are not only recorded and shared but that attention is given to observations of the student's ability to process information, express an idea, or perform a skill. Since observational data may either support or conflict with conclusions based on other assessment procedures, the inclusion of such data is critical.

Sec. 300.542 Observation

(a) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

(b) In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(Authority: Sec. 5(b), Pub L. 94 – 142)

Consideration of Input from all Team Members

An Integrated Written Assessment Report enables all multidisciplinary team members, including the parents, to know whether their assessment information and observations were considered. A student's unique patterns of functioning, particularly for students whose problems are complex, will emerge only after the team's joint analysis of all input. Conclusions drawn by an individual without benefit of discussion and deliberation with other team members typically fail to describe complex interactions and are less likely to reconcile inconsistencies in the data. It is important that contradictions in data be carefully considered and explained, and that *all* team members agree with the explanation.

The team's conclusions are derived from the assessment data and recorded in the Integrated Written Assessment Report. Input from all team members and all parameters of functioning must be considered. If some interfering factors are due to disabilities in addition to the *primary* disability, the Integrated Written Assessment Report ensures that such secondary disabilities are identified and the complexity of the interaction of various disabilities is addressed.

Assessment findings from evaluators outside the school district should be considered in conjunction with all other findings and integrated into the written report. All information gathered during the evaluation process is important, whether conducted by school personnel or outside evaluators.

Nondiscriminatory Procedures

Nondiscriminatory assessment procedures that were addressed throughout the evaluation process must be included in the Integrated Written Assessment Report so this information can be considered when determining whether the child has a disability and whether the child needs special education or related services. These conclusions assure that the student is not identified as having a disability when the concerns are primarily related to cultural, environmental, sensory, motor, emotional and/or economic issues.

Current and Relevant Data for Determining Educational Needs

The Integrated Written Assessment Report should serve as a resource document for all planning teams, including the BLST. Recommendations regarding instructional needs and participation in the general education curriculum should be included in the report as further explanation of the student's performance within areas of strength or need. Such recommendations may be implemented by qualified personnel regardless of whether there is an identified disability.

It is important to provide immediate attention to areas in need of modification or adaptation that may not be relevant to eligibility or placement decisions. Examples of such situations are given below.

- Medical and other health-related problems and environmental circumstances that are physically threatening or otherwise affect a student's physical well being need to be addressed. Response to such needs often requires a referral to specialists or other agencies.
- Classroom situations that impair learning or achievement and require attention regardless of placement can be addressed immediately. For instance, if a hearing impairment is reported and preferential seating is necessary, a change in seating arrangement should not be delayed until the development of the individualized education program (IEP). Any immediate changes implemented at this time will benefit the child and be advantageous to the assessment and program planning process.
- The Integrated Written Assessment Report should indicate needs that are specifically setting-related. Examples include: physical accessibility; distractions (e.g., auditory, visual, spatial) that interfere with functioning; teaching style; classroom climate; number of personnel with whom the student will be expected to interact; and number and age of students in classroom. When assessment shows that setting-related factors make a critical difference, the observations should be noted in the report.

The Integrated Written Assessment Report will not establish whether special education or related services are required or who is responsible for any resulting services; it will only determine whether the student has a disability and if it is appropriate to develop an individualized education program (IEP). It is important to remember that when a student has been determined to have a disability, the individualized education program process rather than the evaluation process determines whether the student is in need of special education and related services and placement in the least restrictive environment.

When the assessment findings have been adequately analyzed by the multidisciplinary team and the significant information summarized in the report, the IEP team will be able to draw directly from the report in preparing the present levels of educational performance statements for the IEP. The sharing and analysis of the assessment data occurs separate from and precedes the IEP meeting. However, procedures in local schools may be such that many of the same persons function on the multidisciplinary team for both assessment and IEP development. If so, the sharing and analysis of assessment information and the IEP development may occur at one meeting, provided the assessment discussion occurs before the IEP is planned.

Determination of a Disability

At the conclusion of the meeting to review the assessment results, the team which includes the child's parent(s), will determine whether the unique educational needs of the student are due to a disability as defined by IDEA or Section 504 of the Rehabilitation Act of 1973. Any inconsistencies in assessment information obtained from various procedures must be reconciled, and the explanations documented. The report must include a statement as to whether the student has a disability and what that disability is as defined in IDEA. The categories used in North Dakota are: specific learning disability, hearing impairment, deafness, visual impairment including blindness, deaf-blindness, mental retardation, emotional disturbance, orthopedic impairment, other health impairment, traumatic brain injury, autism, and speech or language impairment.

For younger children in North Dakota, the Non-Categorical Delay (NCD) eligibility option may be used for ages 3 through the end of the school year in which the child turns 6. This option may be used in situations where the determination of a disability is not clear but delays are well documented.

In the past, some children may have been inappropriately identified as having a disability because they had not received sufficient academic support. Therefore, in making an eligibility determination, a child may not be considered to be a child with a disability if the determinant factor is lack of instruction in reading or mathematics, or limited English proficiency. Consideration of these factors must be documented on the top of the state-recommended Integrated Written Assessment Report form.

COMMENTS ON "SPECIAL RULE FOR ELIGIBILITY DETERMINATION" FROM THE COMMITTEE ON LABOR AND HUMAN RESOURCES

"The committee intends that professionals, who are involved in the evaluation of a child, give serious consideration at the conclusion of the evaluation process to other factors that might be affecting a child's performance. There are substantial numbers of children who are likely to be identified as disabled because they have not previously received proper academic support. Such a child often is identified as learning disabled, because the child has not been taught, in an appropriate manner for the child, the core skill of reading. Other cases might include children who have limited English proficiency. Therefore, in making the determination of a child's eligibility, the bill states that a child shall not be determined to be a child with a disability if the determinant factor for such a determination is lack of instruction in reading or math or limited English proficiency. The committee believes that this provision will lead to fewer children being improperly included in special education programs where their actual difficulties stem from another cause and that this will lead schools to focus greater attention on these subjects in the early grades."

If the student is not eligible under IDEA, the assessment report will determine if the student is considered "handicapped" under Section 504 of the Rehabilitation Act. This eligibility assures the provision of parental rights, procedural safeguards, and an individualized accommodation plan, which are afforded under that law.

For students not requiring special education or services under Section 504 but for whom the existing general education curriculum has not fostered successful learning, the school will need to plan for satisfactory changes in the general educational program.

Consensus Statement

The team needs to gain consensus on how all findings, including those from evaluators outside the school district, relate to the questions asked during the assessment planning process and whether there is a significant impact on the student's learning. The procedures require that team members sign the report to verify that the report reflects their conclusions. If a team member disagrees with the report, that team member may attach a dissenting statement to that effect.

Sec. 300.534 **Determination of eligibility**

(a) Upon completing the administration of tests and other evaluation materials:
- (1) A group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in §300.7; and
- (2) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

(b) A child may not be determined to be eligible under this part if:
- (1) The determinant factor for that eligibility determination is:
  - (i) Lack of instruction in reading or math; or
  - (ii) Limited English proficiency; and
- (2) The child does not otherwise meet the eligibility criteria under §300.7(a).

(c)(1) A public agency must evaluate a child with a disability in accordance with §§300.532 and 300.533 before determining that the child is no longer a child with a disability.

(2) The evaluation described in paragraph (c)(1) of this section is not required before the termination of a student's eligibility under Part B of the Act due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE under State law.

(Authority: 20 U.S.C. 1414(b)(4) and (5), (c)(5)).

Sec. 300.535 **Procedures for determining eligibility and placement**

(a) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.7, and the educational needs of the child, each public agency shall:
- (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
- (2) Ensure that information obtained from all of these sources is documented and carefully considered.

(b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.340-300.350.

(Authority: 20 U.S.C. 1412(a)(6), 1414(b)(4))

Reevaluation

The reevaluation procedure confirms the student has a disability and assures the student's total needs have been identified and are being met. The evaluation planning process for the purpose of reevaluation begins with the members of the IEP team. Team membership may expand to include other personnel based on questions that the team has about the student. As members of the IEP team, parents must participate in the review of the existing information.

Following the completion of the Student Profile, the child's IEP team may determine that no additional information is needed to determine whether the child continues to be a child with a disability. If the child's team determines that no additional information is needed, an Integrated Written Assessment Report must be completed to verify agreement that all current and relevant data have been gathered to make disability determination decisions. The team decision that no additional information is needed must be documented on the bottom of the state-recommended Integrated Written Assessment Report.

A copy of the Integrated Written Assessment Report must be given to the parents to notify them of the determination that no additional information is needed and the reasons for that determination. The child's parents must be informed of their right to request an evaluation to determine whether their child continues to be a child with a disability. The school is not required to conduct the evaluation unless requested by the parent.

The team determination that no additional information is needed and that the child's parents have been informed of their rights regarding this determination, must be documented on the bottom of the state-recommended Integrated Written Assessment Report. A parent signature and date is required to verify they have been informed.

If, following the completion of the Student Profile, the team determines new information is needed, parental consent must be obtained. If a parent of the child with a disability refuses consent for reevaluation, the school may continue to pursue consent for reevaluation by using mediation and due process procedures.

If a parent fails to respond to consent for evaluation, the school must demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond. The school must document attempts to contact the parents, such as a detailed record of telephone calls made or attempted and the results of the calls; copies of correspondence sent to parents such as prior notice forms and any responses received from the parents; detailed records of visits made to the parent's home or place of employment and the results of those visits.

The IEP team must remember that failing to respond to a request for consent is different from refusing to consent. The provision in IDEA 97 is that a school district can proceed with a reevaluation without informed consent only when parents have failed to respond to the district's reasonable attempts to obtain the consent.

When the team determines new information is needed, an Assessment Plan must be completed. The Assessment Plan will answer questions relating to the presence of a disability. Through sharing and analyzing current data and observations of the student's functioning, the team will determine what additional information is needed. In this way, appropriate assessment procedures can be selected to establish the student's present ability and achievement levels and to note any concerns regarding the student's current functioning. Thorough assessment planning at the time of reevaluation eliminates the use of unnecessary routine testing. As with the initial evaluation, it is not appropriate to administer the same battery of tests to all students.

Maintaining a broad scope throughout the evaluation process remains as critical at the time of a reevaluation as it does at the initial evaluation. Nondiscriminatory procedures must also be followed in the reevaluation. If there is a suspicion of a disability other than or in addition to the primary disability, all aspects of functioning must receive attention. This may include behavior, health, vision, hearing, social and emotional status, cognitive ability, academic performance, communicative status, and motor abilities. Such attention might lead to the identification of other suspected disabilities which may have been unrecognized or overlooked. Thus, the functioning of the student as a total person will be observed. Each reevaluation should consider the student's long-range needs, including the skills necessary for a successful transition into adult living.

The Integrated Written Assessment Report should include all aspects that verify or fail to verify the determination of disability and all new information that requires significant attention in program planning. All components of an initial Integrated Written Assessment Report must also be included in each subsequent reevaluation report for the child.

Sec. 300.536 Reevaluation

Each public agency shall ensure:

(a) That the IEP of each child with a disability is reviewed in accordance with §§300.340-300.350; and

(b) That a reevaluation of each child, in accordance with §§300.532- 300.535, is conducted if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years.

(Authority: 20 U.S.C. 1414(a)(2))

If the reevaluation determines that a student who has been receiving special education services no longer meets the disability criteria under IDEA, the team needs to determine if services are appropriate under Section 504. It is recommended that students not eligible under IDEA or Section 504 be referred to the BLST for additional support.

Independent Evaluations

At the end of the evaluation process, parents who do not agree with some aspect of the evaluation have the right to request an independent educational evaluation at public expense. An independent evaluation is defined as an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child in question. If the school maintains that its assessment is appropriate, the school may initiate a due process hearing to show that its evaluation is appropriate.

If the school district initiates a due process hearing and findings show that the district's assessment is appropriate, parents may obtain an independent evaluation at their own expense. If a due process hearing is not initiated, the school must pay for the requested independent evaluation. The school must provide to parents, on request, information about how and where an independent evaluation may be obtained. Parents must receive approval for an independent evaluation prior to obtaining it.

Results from any independent evaluation must be considered by the team for evaluation activities or program planning. It is important to determine that a qualified person conducted the independent evaluation, and that criteria for evaluation procedures were met.

NOTE

A complete copy of Sec. 300.502, Independent Educational Evaluation, can be found in Appendix A.

Appendixes

A. Federal Regulations
- Sec. 300.19
- Sec. 300.125
- Sec. 300.502
- Sec. 300.503
- Sec. 300.504
- Sec. 300.505
- Sec. 300.531
- Sec. 300.532
- Sec. 300.533
- Sec. 300.534
- Sec. 300.535
- Sec. 300.536
- Sec. 300.542

B. State-Recommended Evaluation Forms
- Student Demographics
- Student Profile
- Assessment Plan
- Integrated Written Assessment Report

Sec. 300.19 Native language

(a) As used in this part, the term *native language*, if used with reference to an individual of limited English proficiency, means the following:

(1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section.

(2) In all direct contact with a child (including evaluation of the child), communication would be in the language normally used by the child in the home or learning environment.

(b) For individuals with deafness or blindness, or for individuals with no written language, the mode of communication is that normally used by the individual (such as sign language, braille, or oral communication).

(Authority: 20 U.S.C. 1401(16))

Sec. 300.125 **Child find**

(a) General requirement. (1) The State must have in effect policies and procedures to ensure that:

(i) All children with disabilities residing in the State, including children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated; and

(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

(2) The requirements of paragraph (a)(1) of this section apply to:

(i) Highly mobile children with disabilities (such as migrant and homeless children);

(ii) Children who are suspected of being a child with a disability under §300.7 and in need of special education, even though they are advancing from grade to grade.

(b) *Documents relating to child find.* The State must have on file with the Secretary the policies and procedures described in paragraph (a) of this section, including:

(1) The name of the State agency (if other than SEA) responsible for coordinating the planning and implementation of the policies and procedures under paragraph (a) of this section;

(2) The name of each agency that participates in the planning and implementation of the child find activities and a description of the nature and extent of its participation;

(3) A description of how the policies and procedures under paragraph (a) of this section will be monitored to ensure that the SEA obtains:

(i) The number of children with disabilities within each disability category that have been identified, located and evaluated; and

(ii) Information adequate to evaluate the effectiveness of those policies and procedures; and

(4) A description of the method the State uses to determine which children are currently receiving special education and related services.

(c) *Child find for children from birth through age 2 when the SEA and lead agency for the Part C program are different.* (1) in States where the SEA and the State's lead agency for the Part C program are different and the Part C lead agency will be participating in the child find activities described in paragraph (a) of this section, a description of the nature and extent of the Part C lead agency's participation must be included under paragraph (b)(2) of this section.

(2) With the SEA's agreement, the Part C lead agency's participation may include the actual implementation of child find activities for infants and toddlers with disabilities.

(3) The use of an interagency agreement or other mechanism for providing for the Part C lead agency's participation does not alter or diminish the responsibility of the SEA to ensure compliance with the requirements of this section.

(d) *Construction.* Nothing in the Act requires that children be classified by their disability so long as each child who has a disability listed in §300.7 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

(e) *Confidentiality of the child find data.* The collection and use of data to meet the requirements of this section are subject to the confidentiality requirements of §§300.560-300.577.

(Authority: 20 U.S.C. 1412 (a)(3) (A) and (B))

Sec. 300.502

Independent educational evaluation

(a) *General.* (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.

(2) Each public agency shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.

(3) For the purposes of this part:

(i) *Independent educational evaluation* means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and

(ii) *Public expense* means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with §300.301.

(b) *Parent right to evaluation at public expense.* (1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must without unnecessary delay, either:

(i) Initiate a hearing under §300.507 to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing under §300.507 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency initiates a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the public agency may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(c) *Parent initiated evaluations.* If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

(1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and

(2) May be presented as evidence at a hearing under this subpart regarding that child.

(d) *Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) *Agency criteria.* (1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

(Authority: 20 U.S.C. 1415(b)(1))

Sec. 300.503 **Prior notice by the public agency; content of notice**

(a) *Notice.* (1) Written notice that meets the requirement of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency:

(i) Proposes to initiate or change the identification, evaluation or educational placement of the child or the provision of FAPE to the child; or

(ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

(2) If the notice described under paragraph (a)(1) of this section relates to an action proposed by the public agency that also requires parental consent under §300.505, the agency may give notice at the same time it requests parent consent.

(b) *Content of notice.* The notice required under paragraph (a) of this section must include:

(1) A description of the action proposed or refused by the agency;

(2) An explanation of why the agency proposes or refuses to take the action;

(3) A description of any other options that the agency considered and the reasons why those options were rejected;

(4) A description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

(5) A description of any other factors that are relevant to the agency's proposal or refusal;

(6) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part, and if this notice is not an initial referral for an evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

(7) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

(c) *Notice in understandable language.* (1) The notice required under paragraph (a) of this section must be:

(i) Written in language understandable to the general public; and

(ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency shall take steps to ensure:

(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(ii) That the parent understands the content of the notice; and

(iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

(Authority: 20 U.S.C. 1415(b)(3), (4) and (c), 1414(b)(1))

Sec. 300.504 **Procedural safeguards notice**

(a) *General.* A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum:
(1) Upon initial referral for evaluation;
(2) Upon each notification of an IEP meeting;
(3) Upon reevaluation of the child, and
(4) Upon receipt of a request for due process under §300.507.

(b) *Contents.* The procedural safeguards notice must include a full explanation of all the procedural safeguards available under §§300.403, 300.500–300.529, and 300.560–300.577, and the State complaint procedures available under §§300.660–300.662 relating to:
(1) Independent educational evaluation;
(2) Prior written notice;
(3) Parental consent:
(4) Access to educational records;
(5) Opportunity to present complaints to initiate due process hearings;
(6) The child's placement during pendency of due process proceedings;
(7) Procedures for students who are subject to placement in an intern alternative educational setting;
(8) Requirements for unilateral placement by parents of children in private schools at public expense;
(9) Mediation;
(10) Due process hearings, including requirements for disclosure of evaluation results and recommendations;
(11) State-level appeals (if applicable in that State);
(12) Civil actions;
(13) Attorneys' fees; and
(14) The State complaint procedures under §§300.660–300.662, including a description of how to file a complaint and the timelines under those procedures.

(c) *Notice in understandable language.* The notice required under paragraph (a) of this section must meet the requirements of §300.503(c).

(Authority: 20 U.S.C. 1415(d))

Sec. 300.505 **Parental consent**

(a) *General.* (1) Subject to paragraphs (a)(3), (b) and (c) of this section, informed parent consent must be obtained before:
  (i) Conducting an initial evaluation or reevaluation; and
  (ii) Initial provision of special education and related services to a child with a disability.
  (2) Consent for initial evaluation may not be construed as consent for initial placement described in paragraph (a)(1)(ii) of this section.
  (3) Parental consent is not required before:
    (i) Reviewing existing data as part of an evaluation or a reevaluation; or
    (ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent required of parents of all children.

(b) *Refusal.* If the parents of the child with a disability refuse consent for initial evaluation or a reevaluation, the agency may continue to pursue those evaluations by using the due process procedures under §§300.507-300.509, or the mediation procedures under §300.506 if appropriate, except to the extent inconsistent with State law relating to parental consent.

(c) *Failure to respond to request for reevaluation.* (1) Informed parental consent need not be obtained for reevaluation if the public agency can demonstrate that is has taken reasonable measures to obtain that consent, and the child's parent has failed to respond.
  (2) To meet the reasonable measures requirement in paragraph (c)(1) of this section, the public agency must use procedures consistent with those in §300.345(d).

(d) *Additional State consent requirements.* In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in failure to provide the child with FAPE.

(e) *Limitation.* A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a) and (d) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

(Authority: 20 U.S.C. 1415(b)(3); 1414(a)(1)(C) and (c)(3))

Sec. 300.531 **Initial Evaluation**

Each public agency shall conduct a full and individual initial evaluation. In accordance with §§300.532 and 300.533 before the initial provision of special education and related services to a child with a disability under Part B of the Act.

(Authority: 20 U.S.C. 1414(a)(1))

Sec. 300.532 **Evaluation procedures**

Each public agency shall ensure, at a minimum, that the following requirements are met:

(a)(1) Tests and other evaluation materials used to assess a child under Part B of the Act:

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; and

(ii) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

(2) Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

(b) A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining:

(1) Whether the child is a child with a disability under §300.7; and

(2) The content of the child's IEP.

(c)(1) Any standardized tests that are given to a child:

(i) Have been validated for the specific purpose for which they are used; and

(ii) Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the test.

(2) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.

(d) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(e) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(f) No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.

(g) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(h) In evaluating each child with a disability under §§300.531-300.536, the evaluation is sufficiently comprehensive to identify all of the child's special education and relative service needs, whether or not commonly linked to the disability category in which the child has been classified.

(i) The public agency uses technically sound instruments that may assess the related contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(j) The public agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

(Authority: 20 U.S.C. 1412(a)(6)(B), 1414(b) (2) and (3))

Sec. 300.533 **Determination of needed evaluation data**

(a) *Review of existing evaluation data.* As part of an initial evaluation (if appropriate) and as part of any reevaluation under Part B of the Act, a group that includes the individuals required by §300.344, and other qualified professionals, as appropriate, shall:
(1) Review existing evaluation data on the child, including:
(i) Evaluations and information provided by the parents of the child;
(ii) Current classroom-based assessments and observations; and
(iii) Observations by teachers and related services providers; and
(2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine:
(i) Whether the child has a particular category of disability, as described in §300.7, or, in case of a reevaluation of a child, whether the child continues to have such a disability;
(ii) The present levels of performance and educational needs of the child;
(iii) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
(iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

(b) *Conduct of review.* The group described in paragraph (a) of this section may conduct its review without a meeting.

(c) *Need for additional data.* The public agency shall administer tests and other evaluation materials as may be needed to produce the data identified under paragraph (a) of this section.

(d) *Requirements if additional data are not needed.* (1) If the determination under paragraph (a) of this section is that no additional data are needed to determine whether the child continues to be a child with a disability, the public agency shall notify the child's parents:
(i) Of that determination and the reasons for it; and
(ii) Of the right of the parents to request an assessment, whether, for the purposes of services under this part, the child continues to be a child with a disability.
(2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

(Authority: 20 U.S.C. 1414(c)(1), (2) and (4))

Sec. 300.534 Determination of eligibility

(a) Upon completing the administration of tests and other evaluation materials:
  (1) A group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in §300.7; and
  (2) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

(b) A child may not be determined to be eligible under this part if:
  (1) The determinant factor for that eligibility determination is:
    (i) Lack of instruction in reading or math; or
    (ii) Limited English proficiency; and
  (2) The child does not otherwise meet the eligibility criteria under §300.7(a).

(c)(1) A public agency must evaluate a child with a disability in accordance with §§300.532 and 300.533 before determining that the child is no longer a child with a disability.

  (2) The evaluation described in paragraph (c)(1) of this section is not required before the termination of a student's eligibility under Part B of the Act due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE under State law.

(Authority: 20 U.S.C. 1414(b)(4) and (5), (c)(5))

Sec. 300.535 Procedures for determining eligibility and placement

(a) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.7, and the educational needs of the child, each public agency shall:
  (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
  (2) Ensure that information obtained from all of these sources is documented and carefully considered.

(b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.340-300.350.

(Authority: 20 U.S.C. 1412(a)(6), 1414(b)(4))

Sec. 300.536 Reevaluation

Each public agency shall ensure:
  (a) That the IEP of each child with a disability is reviewed in accordance with §§300.340-300.350; and
  (b) That a reevaluation of each child, in accordance with §§300.532- 300.535, is conducted if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years.

(Authority: 20 U.S.C. 1414(a)(2))

Sec. 300.542 Observation

(a) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

(b) In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(Authority: Sec. 5(b), Pub L. 94 – 142)

Student Demographics

Check One:

☐ Initial Date of Referral _____/_____/_____ (Month / Day / Year)

☐ Reevaluation - Date of Last Comprehensive Evaluation _____/_____/_____ (Month / Day / Year)

A. STUDENT INFORMATION

Student Name (Last, First, Middle Initial)		**Birthdate** (month, day, year) _____/_____/_____	**Sex** ☐ Male ☐ Female
Grade	Referring Teacher	Race 1 2 3 4 5	Primary Language
Current Address		City, State, Zip	
Permanent Residence Address (if different than above)		City, State, Zip	
School of Enrollment			School Telephone Number

B. PARENT/GUARDIAN INFORMATION

Name of Parent(s)	Home Telephone Number	Other Telephone Number
Address (if other than Student's Permanent Residence Address)	City, State, Zip	
Primary Language at Home		
Guardian/Surrogate Parent Name		
Address (if other than Student's Permanent Residence Address)	Home Telephone Number	Other Telephone Number

C. PROCEDURAL SAFEGUARDS

Initial Evaluation

	Month	Day	Year
Date Parents/Guardian Notified of Referral	_____	_____	_____
Date Parents/Guardian Given Full Explanation of Procedural Safeguards	_____	_____	_____
Date Parents/Guardian Signed Initial Consent for Evaluation	_____	_____	_____

Reevaluation

	Month	Day	Year
Date Parents/Guardian Notified of Reevaluation	_____	_____	_____
Date Parents/Guardian Given Full Explanation of Procedural Safeguards	_____	_____	_____
Date Parents/Guardian Signed Consent for Reevaluation (if new data are needed)	_____	_____	_____

Student Profile

Student Name	Date of Birth	Grade	Current Date

The Student Profile is an integration of information from many sources, including the student's family. The following characteristics/influences were considered in the team discussion. The areas stated on the profile are significant to meeting the student's unique needs.

Cognitive Characteristics: Language Skills, Listening Comprehension, Oral Expression, Written Expression, Reading Skills, Reading Comprehension, Math Reasoning, Math Calculation, Ability

Physical Characteristics: Medical, Vision, Hearing, Motor

Adaptive Characteristics: Self Care, Independent Living, Social Skills, Community Use, Self Direction, Health and Safety, Leisure, Work

Classroom Characteristics: Methods of Instruction, Group Learning Opportunities, Individual Learning Opportunities, Assignments

Environmental Influences: Home/Family, Neighborhood, Community

Other: _____

Student Characteristics/Influences	Sources of Information	Findings	Additional Information Needed

Integrated Written Assessment Report

Student Name	Date of Birth	Grade	Current Date

☐ Check here that the multidisciplinary team has considered that the child's disability is not due to lack of instruction in reading or math and/or limited English proficiency.

☐ Check here that the child's parents received a copy of this Integrated Written Assessment Report on _____
Date

SIGNATURES OF TEAM MEMBERS

Name/Title	*Name/Title*
_____	_____
_____	_____
_____	_____
_____	_____

☐ Check here if the student profile has been completed and the child's multidisciplinary team, including the parents, has determined that no additional information is needed to determine or to confirm the child has a disability. The child's parents have been informed of their rights regarding §300.533(d) - *Requirements if additional data are not needed.*

_____ _____
Parents Signature *Date*

Assessment Plan

Student Name	Date of Birth	Grade	Current Date

Purpose for Assessment:

_____ Initial evaluation to determine disability and individual program needs.

_____ Reevaluation to confirm disability. (Required every 3 years, or sooner if appropriate.)

_____ Evaluation or reevaluation for individual program needs. Dismissal from services.

Considerations for Nonbiased Assessment:

Do any of the following areas impact how the student will be assessed? If so, check all that apply and address how areas will be assessed within the "Assessment Procedures" section.

_____ culture

_____ environment

_____ economic

_____ sensory (vision, hearing, motor)

_____ emotional

_____ other: _____

Questions should focus on the student's method of learning as well as the learning environments.

Questions to Answer through Assessment	Assessment Procedures	Person(s) Responsible